

STATEMENT OF THE CASE

Defendant-Appellant Andre Thomas (“Thomas”) is appealing his conviction after a bench trial of the class A misdemeanors of domestic battery and battery.¹

We affirm.

ISSUE

Thomas states the issue as:

Was the State’s evidence sufficient to sustain Appellant’s conviction for domestic battery?

FACTS

Thomas and Barbara Moore were living together. They were involved in a romantic relationship as well as being co-signors on the apartment’s lease and sharing in their living expenses. Moore considered their relationship as marriage, except without the formalities thereof.

The parties had been drinking and Moore became intoxicated. An argument ensued, and after a period of time Thomas grabbed Moore by the hair dragging her from the car. Moore sustained scratches on her elbow and shoulders.

DISCUSSION AND DECISION

Our standard of review for claims of insufficient evidence is well settled. We must affirm a conviction unless no reasonable fact-finder could have found the evidence proved the defendant’s guilt beyond a reasonable doubt. *Rowe v. State*, 813 N.E.2d 1232,

¹ We note that the trial court convicted Thomas of both offenses but “merged” the battery conviction into the domestic battery conviction. Such “merger” does not remedy the double jeopardy defects of the two convictions, and we direct the trial court to vacate the battery conviction. *See Jones v. State*, 807 N.E.2d 58 (Ind. Ct. App. 2004), *trans. denied*, *Kochersperger v. State*, 725 N.E.2d 918 (Ind. Ct. App. 2000).

1233 (Ind. Ct. App. 2004). When making our determination we must view the evidence and inferences therefrom in the light most favorable to the verdict, and we may neither reweigh the evidence nor reassess the credibility of the witnesses. *Id.* at 1234.

Ind. Code §35-42-2-1(a)(1) requires proof beyond a reasonable doubt that the defendant knowingly touched a person in a rude or angry manner that caused that person to suffer bodily injury.

Thomas argues that his touching of Moore was done to prevent her from driving their car while she was intoxicated, negating the knowing requirement set forth in the statute. An act is committed “knowingly” if, when the defendant engages in the conduct, he is aware of a high probability that he is doing so. Ind.Code §35-41-2-2(b). Because knowledge is the mental state of the actor, the trier of fact must resort to reasonable inference of its existence. *Young v. State*, 761 N.E.2d 387, 389 (Ind. 2002).

We will affirm a conviction for battery so long as there is evidence of touching, however slight. *Mishler v. State*, 660 N.E.2d 343, 348 (Ind. Ct. App. 1996). The offense of battery requires knowing or intentional conduct in accordance with I.C. 35-42-2-1. The requisite intent may be presumed from the voluntary commission of the act. *Id.* There was evidence that Thomas grabbed Moore and caused injury. Triers of fact determine not only the facts presented to them and their credibility, but any reasonable inference from facts established by direct or circumstantial evidence. *Brink v. State*, 837 N.E.2d 192, 197 (Ind. Ct. App. 2005).

CONCLUSION

The evidence is sufficient to support the verdict. Judgment affirmed.

SULLIVAN, J., and BARNES, J., concur.